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9
10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 ABC INDUSTRIAL LAUNDRY, LLC, a
Nevada limited liability company, dba
UNIVERSAL LAUNDRY and SUPPLY,

13 Plaintiff,

14 vs.

15 FEDERAL INSURANCE COMPANY, an
Indiana corporation; NATIONWIDE
16 MUTUAL INSURANCE COMPANY, an
Ohio corporation,

17 Defendants.
18

CASE NO.: 2:15-cv-00869-RFB-VCF

**THE PARTIES' STIPULATION
AND (PROPOSED) ORDER
TO EXTEND THE DEADLINES
TO DISCLOSE EXPERTS**

19 Pursuant to LR 6-1 and LR 26-4, the Parties, by their counsel of record,
20 hereby stipulate and request that this Court amend the current Scheduling Order of
21 January 19, 2018 [Doc. 62] to extend the deadline to disclose expert witnesses until
22 August 31, 2018 for the reasons outlined herein.¹

23 In support of this Stipulation and Request, the Parties state as follows:

24 Plaintiff ABC INDUSTRIAL LAUNDRY, LLC ("ABC") is a commercial
25 laundry that specializes in laundering linens from high end resorts in Las Vegas,
26

27 ¹ The parties intend to participate in a discussion within the next seven days to
explore the feasibility and timing of mediation and remaining discovery.
28 Thereafter, the parties will submit a proposed Stipulation for the Court's review
and approval.

1 NV. This case is an action by ABC against FEDERAL INSURANCE COMPANY
2 (“Federal”) and NATIONWIDE MUTUAL INSURANCE COMPANY
3 (“Nationwide”) stemming from a loss suffered by one of ABC’s customers related
4 to the alleged negligence of ABC’s chemical supplier. ABC alleges that there is
5 coverage for the loss within Policies from both insurers. Both insurers deny that
6 coverage exists. The case involves multiple complex insurance coverage issues
7 and requires significant discovery of numerous party witnesses as well as
8 numerous third-party witnesses.

9 Further complicating matters, ABC also has litigation pending against the
10 Belgium based chemical manufacturer, Christeys Laundry Technology, in Clark
11 County District Court (the “state court action”). There is extensive overlap in the
12 need for testimony between the two cases, and the Parties to this case and the state
13 court action have been communicating several times per week to coordinate
14 discovery efforts for the sake of efficiency and economy.

15 The summary of the activity in this case to date is as follows:

16 1. On June 29, 2015, the Court granted the Proposed Discovery Plan and
17 Scheduling Order of ABC and Defendant Federal setting expert disclosures
18 deadlines of November 6, 2015 and December 7, 2015, and a discovery cut-off
19 date of February 5, 2016 [Doc. 9]. At that time, Defendant Nationwide was not a
20 party to the case.

21 2. On December 11, 2015, ABC and Federal filed a Stipulation and
22 Order to Extend Discovery (First Request) requesting an extension of the discovery
23 cut-off dates to allow ABC to amend its Complaint to add Nationwide as an
24 additional defendant to the case [Doc. 10].

25 3. On December 14, 2015, the Court granted ABC’s and Federal’s
26 Stipulation an Order to Extend Discovery (First Request), setting a new close of
27 discovery deadline of June 5, 2016 [Doc. 12].
28

1 4. On December 15, 2015, the Court granted ABC's and Federal's
2 Stipulation to Permit Plaintiff to File an Amended Complaint [Doc. 13] and ABC
3 filed its First Amended Complaint adding Nationwide as a defendant on the same
4 date [Doc. 14].

5 5. Nationwide first appeared in this case on January 22, 2016, when it
6 filed its Answer to ABC's First Amended Complaint [Doc. 19].

7 6. On February 18, 2016, the Parties filed a Stipulation and Proposed
8 Order to Amend the Discovery Plan and Scheduling Order (Second Request)
9 because of Nationwide's recent appearance in the case to allow time for the Parties
10 to engage in discovery. On February 19, 2016, the Court granted the Parties'
11 stipulation and entered an Order extending the deadlines and dates, setting a new
12 discovery cut-off date of January 6, 2017 [Doc. 22].

13 7. On September 13, 2016, the Parties filed a Stipulation and Proposed
14 Order to Amend the Discovery Plan and Scheduling Order (Third Request)
15 because the Parties needed additional time to coordinate and complete depositions
16 of necessary fact witnesses and were awaiting responses to numerous document
17 subpoenas served on various Non-Parties believed to have relevant and discovery
18 information relating to the claims in this case. On September 22, 2016, the Court
19 granted the Parties' Stipulation and Proposed Order to Amend Discovery Plan and
20 Scheduling Order (Third Request), setting a May 5, 2017 close of discovery
21 deadline, and deadlines of February 7, 2017 to disclose experts and March 7, 2017
22 to disclose rebuttal experts [Doc. 31]. The Court also granted the Parties' proposed
23 Stipulated Protective Order [Doc. 30].

24 8. On January 17, 2017, the Parties filed a Stipulation and Proposed
25 Order to Amend the Discovery Plan and Scheduling Order (Fourth Request)
26 because the Parties needed additional time to coordinate and complete depositions
27 of necessary fact witnesses, the Parties believed, among other things, were
28 necessary for their respective experts to formulate opinions in this case. On

1 January 18, 2017, the Court granted the Parties' Stipulation and Proposed Order to
2 Amend Discovery Plan and Scheduling Order (Fourth Request), setting an October
3 6, 2017 close of discovery deadline, and deadlines of June 6, 2017 to disclose
4 experts and July 7, 2017 to disclose rebuttal experts [Doc. 37].

5 9. On May 16, 2017, the Parties filed a Stipulation and Proposed Order
6 to Amend the Discovery Plan and Scheduling Order (Fifth Request) because the
7 Parties needed additional time to coordinate and complete depositions of necessary
8 fact witnesses the Parties believed, among other things, were necessary for their
9 respective experts to formulate opinions in this case. On May 17, 2017, the Court
10 granted the Parties' Stipulation and Proposed Order to Amend Discovery Plan and
11 Scheduling Order (Fifth Request), setting a January 1, 2018 close of discovery
12 deadline, and deadlines of September 6, 2017 to disclose experts and October 6,
13 2017 to disclose rebuttal experts [Doc. 50].

14 10. On October 25, 2017, the Parties participated in hearing regarding
15 Stipulation for Extension of Time [Doc. 56] before Magistrate Judge Cam
16 Ferenbach [Doc. 58].

17 11. On January 30, 2018, the Court approved the Parties' Discovery Plan
18 and Scheduling Order setting an October 15, 2018 close of discovery deadline, and
19 deadlines of July 17, 2018 to disclose experts and August 16, 2018 to disclose
20 rebuttal experts [Doc. 63].

21 12. The discovery that has been completed to date includes:

- 22 a. Exchange of Fed. R. Civ. P. 26(a)(1) Initial Disclosures, including
23 documents, and supplemental disclosures;
- 24 b. The Parties have exchanged written discovery, including requests
25 for admissions, requests for production of documents, and
26 interrogatories;
- 27 c. A stipulated protective order was entered on September 22, 2016,
28 to facilitate the discovery and production of documents deemed

1 confidential, proprietary or otherwise trade secret by the
2 producing party, including certain Non-Parties who have indicated
3 they cannot produce documents in response to document
4 subpoenas without a protective order in place;

5 d. Defendants Nationwide and Federal have identified their
6 respective Fed. R. Civ. P. 30(b)(6) witnesses in response to
7 categories presented by ABC, and the Parties are working to
8 coordinate scheduling of the various depositions;

9 e. To date, document subpoenas have been served on the following
10 Non-Parties:

- 11 1. Christeys Laundry Technology, LLC;
- 12 2. Companion Commercial Insurance Company;
- 13 3. International Textile Analysis Laboratory;
- 14 4. Liberty Mutual Insurance Company;
- 15 5. Nationwide Union Fire Insurance Company of
16 Pittsburgh, PA.
- 17 6. Rimkus Consulting Group, Inc.;
- 18 7. Sobel Westex Quality Control;
- 19 8. Textile Solutions, LLC;
- 20 9. Universal Garment Wash & Dye, LLC;
- 21 10. Wynn Las Vegas, LLC;
- 22 11. Brown & Brown Northwest;
- 23 12. Exponent Failure Analysis Associates;
- 24 13. CHEM-BAC Laboratories, Inc.; and
- 25 14. Frank Campagna, Swarts & Swarts.

26 f. Over 125,000 pages of documents have been produced by ABC in
27 response to discovery served by Federal and Nationwide. In
28 addition, in response to the subpoenas above, the Parties have

received more than 130,000 additional pages of documents from Non-Parties.

g. Defendants Nationwide and Federal, upon the agreement of ABC, visually inspected ABC's commercial laundry facility and laundering equipment located at 240 Spectrum Boulevard, Las Vegas, Nevada, and samplings of the Wynn Las Vegas, LLC's affected linens or other goods identified to be in ABC's possession.

h. On April 11, 2017, all Parties, through their attorneys, met at ABC's facilities to distribute and obtain samples of linens for further testing and analysis by the Parties and/or their respective experts and/or consultants. The testing is now underway.

i. On August 15, 2017 and August 16, 2017, the Parties proceeded in Boston, MA, with the deposition of Rudi Moors, person most knowledgeable for Christeyns Laundry Technology.

j. On March 9, 2018 and April 13, 2018, the Parties proceeded with the deposition of FRCP 30(b)(6) witnesses of non-party, Wynn Las Vegas, LLC.

13. The discovery that is anticipated and remains to be completed is:

- a. Additional non-party document subpoenas identified as necessary;
- b. Additional exchange of written discovery;
- c. Depositions of fact witnesses (discussed below); and
- d. Expert disclosures and depositions.

14. Additionally, on February 17, 2017, Federal filed a Motion for Summary Judgment on ABC's claims against Federal ("MSJ") [Doc. 38]. Pursuant to approval of the Court, ABC filed its opposition to Federal's Motion for Summary Judgment on March 31, 2017 [Doc. 43], and Federal filed its reply to the

1 opposition on April 28, 2017 [Doc. 46]. The Motion was heard on August 24,
2 2017.

3 15. The Parties have been working diligently to exchange discovery and
4 documents, and to identify and coordinate the depositions each party believes are
5 necessary in preparation for trial. To allow the Parties more time to complete this
6 discovery, and coordinate and complete the depositions discussed below, and
7 because of the approaching expert disclosure deadline for which the Parties'
8 experts will need deposition testimony to formulate their opinions, the Parties
9 request a short continuance of the current deadlines for the following reasons:

10 a. The case involves complex insurance coverage questions
11 involving both property and liability claims under policies of
12 insurance issued by different insurers (Federal and Nationwide),
13 as well as allegations by ABC relating to Federal's and
14 Nationwide's handling of ABC's claims. Accordingly, the
15 Parties intend to conduct discovery on at least the following
16 subjects:

- 17 (1) the factual and legal basis for ABC's breach of contract,
18 tortious breach of the duty of good faith and fair dealing, and
19 breach of statutory duties (NRS §686A.310) claims;
20 (2) the factual and legal basis, extent, amount, and nature of ABC's
21 claimed damages, including alleged consequential damages;
22 (3) facts surrounding the damage to Wynn's linens and other goods
23 alleged by ABC, upon information and belief, to have resulted
24 from the negligence on the part of Christeyns Laundry
25 Technology USA ("Christeyns");
26 (4) facts surrounding the lawsuit filed by Wynn against ABC for
27 claimed damage to its products;
28 (5) Federal's and Nationwide's affirmative defenses in this matter;

1 and

2 (6) the investigation of and response by Federal and Nationwide to
3 ABC's respective claims submitted under the policies of
4 insurance which are at issue in this litigation.

5 b. On August 15 and August 16, 2017, the Parties finally
6 proceeded with the Fed. R. Civ. P. 30(b)(6) deposition of non-
7 party Christeyns Laundry Technology USA ("Christeyns") in
8 Boston, MA. Christeyns is the company ABC contends
9 managed and coordinated the laundry chemical formulation and
10 injection into the laundry system in ABC Industrial Laundry,
11 LLC's ("ABC") commercial laundry facility, and who ABC
12 contends is responsible for the damage to the Wynn Las Vegas,
13 LLC's ("Wynn") linens and other goods at issue in this case. In
14 addition to Christeyns being a material fact witness in this case,
15 ABC has sued Christeyns in state District Court, Clark County
16 (docketed as case no. A-15-720810-C). The Parties have
17 engaged in lengthy meet and confer discussions to coordinate
18 Mr. Moors' deposition to occur at the same time for both cases
19 in Boston, MA (where Christeyns' North America subsidiary
20 and counsel are located).

21 Initially, Christeyns had previously agreed to produce Mr. Moors for
22 deposition in Las Vegas and the deposition was set for February 15, 2017 in Las
23 Vegas. However, just days prior to this scheduled deposition, a dispute arose
24 between ABC and Christeyns over Christeyns' production of documents. The
25 deposition was reset for March 15, 2017, and just two (2) business days before the
26 deposition was to commence, Christeyns attempted to retract certain documents
27 from production upon the assertion of privilege, which resulted in the need for
28 ABC to continue Christeyns' deposition and engage in a meet and confer on the

document production issues that arose. The deposition finally proceeded in Boston, MA, on August 15 and August 16, 2017.

c. **Additional depositions anticipated include:**

(1) ABC's principals and employees, Ran Brisman, Avi Cohen, and Jim Smail;

(2) Federal and Nationwide Fed. R. Civ. Pro. 30(b)(6) witnesses requested by ABC, for which Federal currently estimates designating three; witnesses in response to the categories served by ABC, two of whom are in Southern California, and the third is in Northern California, and Nationwide has identified four witnesses in response to the categories served by ABC, two of whom are located in Northern California, one is located in Southern California, and the fourth is located in Columbus, Ohio; and

(3) deposition subpoenas have been issued for the depositions of Plaintiff's former management team, Moshe Levy, Kobi Levy, and Yhuda Levy.

16. The Parties have been working diligently to coordinate the depositions each party believes are necessary in preparation for trial, and specifically expert disclosures. However, on June 7, 2018 Non-Party Wynn Las Vegas, LLC produced more than 45,000 documents as a supplemental response to Federal Insurance Company's Subpoena dated July 15, 2016. The Parties are continuing to complete the discovery outlined above.

17. For the reasons set forth above, and because good cause exists, the Parties hereby agree and stipulate to, and request the following proposed new schedule for disclosing experts and rebuttal experts be entered by the Court:

Event	Current Deadline	New Deadline
Disclosure of Experts	7/17/18	8/31/18

18. If the Court is not inclined to grant this request based on the above, or

requires additional information, the Parties request a Scheduling Conference at the Court's convenience.

Dated: June 26, 2018.

LAW OFFICES OF STEVEN J. PARSONS <u>/s/ Steven J. Parsons</u> STEVEN J. PARSONS, ESQ. Nevada Bar No. 363 Attorney for Plaintiff, ABC INDUSTRIAL LAUNDRY, LLC	HINES HAMPTON, LLP <u>/s/ Christine Emanuelson</u> CHRISTINE M. EMANUELSON Nevada Bar No. 10143 Attorney for Defendant, NATIONWIDE MUTUAL INSURANCE COMPANY
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ORDER

IT IS SO ORDERED.

Dated: July 9, 2018.



U.S. MAGISTRATE JUDGE

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I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Brian W. Goldman
BRIAN W. GOLDMAN
Nevada Bar No. 6317

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CERTIFICATE OF MAILING

I hereby certify that on the 26th day of June, 2018, I electronically filed the foregoing document or paper with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 26, 2018.

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/s/Susan Clokey
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